

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LINDA MCDUFFIE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE NO:
)	_____
STATE FARM FIRE AND)	
CASUALTY COMPANY,)	
a foreign insurance company)	[On removal from the State Court of
Defendant.)	Clayton County, Georgia;
)	Civil Action No. 2023CV00934]

NOTICE OF REMOVAL

COMES NOW, State Farm Fire and Casualty Company (hereinafter “State Farm”) Defendant in the above referenced matter, and within the time prescribed by law, files this Notice of Removal, respectfully showing the Court the following facts:

1.

Plaintiff LINDA MCDUFFIE (hereinafter “Plaintiff”) filed suit against Defendant State Farm in the State Court of Clayton County, which is a county within the Atlanta Division of this Court. This suit is styled as above and numbered Civil Action File No. 2023-CV-00934 in that Court.

2.

Defendant State Farm shows that said suit was initiated on April 21, 2023, in the State Court of Clayton County. Plaintiff served Defendant on May 16, 2023. Defendant shows that this Notice of Removal is filed within thirty (30) days from the date of service of said suit on Defendant. Therefore, removal is timely pursuant to 28 U.S.C. § 1446(b).

3.

Plaintiff is a resident and citizen of Clayton County, Georgia. See, Complaint ¶ 1.

4.

Defendant State Farm is a corporation organized under the laws of the State of Illinois, with its principal place of business in the State of Illinois and is not a citizen of the State of Georgia. Defendant State Farm was not a citizen of the State of Georgia on the date of filing this action and has not been thereafter.

5.

Complete diversity exists between Plaintiff and Defendant in accordance with 28 U.S.C. § 1332(a)(1).

6.

This action is a civil action between citizens of different state where the controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Plaintiff expressly alleges in her Complaint that she is entitled to all damages to her Property and any resulting expenses and temporary repairs, as well as bad faith damages and attorney's fees and costs. See, Complaint ¶ 16, Prayer for Relief. Given the statements of Plaintiff regarding the value of her claim and the amount she contends she is entitled to recover, the amount in dispute in this matter will exceed the jurisdictional requirement of \$75,000.00.

7.

Plaintiff expressly states in her Complaint that she is seeking damages in the amount of \$478,267.37 as the repairs and costs necessary to restore the home following the Loss (more specifically, the cost of “mitigation, rebuild, and debris removal and additional living expenses”). See Complaint, ¶16, fn. 2.

8.

In light of the foregoing, the amount in controversy for this matter exceeds the jurisdictional requirement for removal of \$75,000.00.

9.

Plaintiff also alleges that she submitted a statutory demand for payment pursuant to O.C.G.A. § 33-4-6. (Complaint, ¶¶ 19-20). She also alleges that this Court should award her “a penalty of an amount of fifty percent (50%) of value of the claim, attorney’s fees, and Plaintiff’s consultant and expert fees.” (Complaint, ¶ 41). Thus, the amount in controversy to establish diversity jurisdiction is satisfied in this matter.

10.

This case is a civil action that may be removed to this Court pursuant to 28 U.S.C. § 1441. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and (b) as there is complete diversity of citizenship between Plaintiff and Defendant and, as shown above, the amount in controversy exceeds \$75,000.00. Further, as required by 28 U.S.C. § 1441(b), Defendant State Farm is not a citizen of the State of Georgia.

11.

Defendant State Farm has attached hereto copies of all process, pleadings, and orders served upon it in this case prior to the date of this Notice of Removal. Such copies are attached hereto as **Exhibit B**.

12.

Defendant State Farm has given written notice of the filing of this Notice of Removal to Plaintiff by notifying her attorney of record, William L. Flournoy, Esq, of the Hair Shunnarah Trial Attorneys, LLC, which is located at 4887 Belfort Road, Ste. 200, Jacksonville, Florida 32256. Defendant State Farm has also filed a written notice with the State Court of Clayton County, a copy of said notice being attached hereto and made in part hereof.

WHEREFORE, Defendant STATE FARM FIRE AND CASUALTY COMPANY prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 15th day of June, 2023.

[Signatures on next page]

Respectfully Submitted,

SWIFT, CURRIE, MCGHEE & HIERS, LLP

/s/ Jessica M. Phillips

Jessica M. Phillips, Esq.

Georgia Bar No. 922902

Samuel M. Lyon, Esq.

Georgia Bar. No. 921804

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LOCAL RULE 5.1C CERTIFICATION

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

Respectfully submitted this 15th day of June, 2023.

SWIFT, CURRIE, MCGHEE & HIERS, LLP

/s/ Jessica M. Phillips

Jessica M. Phillips, Esq.

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that I have electronically filed and served the foregoing ***STATE FARM FIRE AND CASUALTY COMPANY'S NOTICE OF REMOVAL*** with the Clerk of Court using the CM/ECF e-filing system, through which the Court will send notification to the following attorney:

William L. Flournoy, Esq.
Hair Shunnarah Trial Attorneys, LLC
4887 Belfort Road, Ste. 200
Jacksonville, Florida 32256
wflournoy@hstalaw.com
Attorney for Plaintiff

Respectfully submitted this 15th day of June, 2023.

SWIFT, CURRIE, MCGHEE & HIERS, LLP

/s/ Jessica M. Phillips
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Georgia Bar No. 922902
Samuel M. Lyon, Esq.
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